

HEA 1309 and Farmers Markets – What's the Connection?

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Background

- Farmers Markets have not been regulated by the state or local health departments in many areas in IN
- Means for entrepreneurs to market their goods and wares
- USDA and ISDA have promoted the development of agriculture and farmers markets
- Purdue and ICDC have been very active in helping educate market masters and vendors
- ISDH has participated in several trainings

Background

- HEA 1309 passed in 2009 by Indiana Legislature
- Allows certain food products to be made in a private residence
 - Limited regulatory oversight
 - Sold in only 2 public places:
 - Farmers' Markets
 - Roadside Stands

HEA 1309 Modifications to IN Code 16-18-2 and 16-42-5

- New exclusion from the definition of “food establishment”
- Addition of term and definition of “potentially hazardous food product”
- Addition of a section outlining sanitary requirements for home based vendors (HBV)

Relevant Definitions

- Farmers' market: **a common facility where two or more farmers or growers gather on a regular recurring basis to sell a variety of fruits, vegetables and other farm products directly to consumers**
- Can be combined with other events, but must be with the farmers market
- Is **NOT** a individual produce market operated by a person or company

Relevant Definitions

- Home-based vendor:
 - An individual who:
 - has made a non-potentially hazardous food product in their primary residence (or in adjacent area on the same property)
 - is selling the food product they made only at a roadside stand or at a farmers' market
 - is not a commercial kitchen

Restricted HBV-Produced Food Products

- Potentially hazardous food products (PHF)
- PHF are natural or synthetic foods that require temperature control because of capability to support:
 - Rapid and progressive growth of infectious/toxigenic microorganisms
 - *Clostridium botulinum*
 - *Salmonella enteritidis*
 - Do consider pH, Aw and other intrinsic factors when making a determination

Examples of PHF

- Meat (domestic or wild)
- Poultry
- Aquatic animal products
- Dairy*
- Egg products*

*Excluding some baked items and dried noodles

Additional Types of PHF

- Canned or hermitically sealed containers of acidified or low-acid food
- Cut melons
- Raw seed sprouts
- Non-modified garlic-in-oil mixtures
- Cut tomatoes
- Use of “reduced oxygen packaging” methods

Specific Examples of Allowed Non-PHF

- Baked goods – cakes, fruit pies, cookies, brownies
- Candy and confections – caramels, chocolates, fudge
- Produce – whole and unprocessed
- Tree nuts and legumes
- Honey, molasses, sorghum, maple syrup
- Jams, jellies, preserves – only high acid fruit
- May be temperature controlled only for quality

Items for Clarification

- Shell eggs are considered a PHF
- Shell eggs cannot be sold by a HBV, but can be sold by a regulated food establishment
- Pickles, if made by acidification, cannot be sold by a HBV
- Low acid and acidified foods must be commercially sterile – HBV cannot do this
 - **Such as:**
 - Green beans, pickled beets, salsa, etc.

Labeling of HBV Food Products

- HBV food products must be labeled
- Label must include the following:
 - Producer's name and address
 - Common name of food product
 - Ingredients of food product
 - Net weight and volume
 - Date food product was processed
 - The following statement:

“This product is home produced and processed and the production area has not been inspected by the State Department of Health.”

Placards

- In place of labeling on the product a placard may be used in some situations:
 - When the product sold is not packaged
 - Must contain all the same required labeling information
 - Labeling is encouraged in most situations

Specifications

- **An HBV:**
 - **may only sell their food products at a farmers' market and a roadside stand**
 - **may not sell other commercially prepared products (prepackaged items)**
 - **shall not deliver to any location other than a farmers' market or roadside stand (pre-ordering is acceptable)**

Food Sampling Procedures

- Practice of proper sanitary procedures
 - Proper hand washing
 - Sanitation of food product's container or other packaging
 - Safe storage of food product
- Sampling does not include the assembling of 2 or more HBV food products at point of sale
- Sampling must be discontinued if not conducted in a sanitary manner

Permitting

- Industry concerns about requirements for multiple permits for same operation
- Food code needs updated to address these non-traditional temporary food establishments

Conclusion

- HEA 1309 promotes home agriculture without specific restraints to home grown product
- Was expected, hence previous work on value added food products
- Refer to ISDH guidance of June 11, 2009
- Purdue website:
<http://www.ag.purdue.edu/foodsci/Pages/IN-HEA-1309-info.aspx>

Final Conclusion

- Role of the regulatory authority and HEA 1309:
 - **Inquire about a food product in certain situations**
 - HBV is non-compliant
 - Occurrence of an imminent health hazard
 - **Emphasize education on new requirements**
 - **Were in this together so don't hesitate to contact us!**

Questions?